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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,937	04/03/2001	Lori Greiner	13345.36US01	1540

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 07/24/2003

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,937

Applicant(s)

GREINER

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-19 and 21-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-19 and 21-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 recites the limitation "the removable member" in line 1. There is insufficient antecedent basis for this limitation in the claim because it can't be determined if the removable member covering the hollow region of the container or the removable member covering the hollow region of the lid is meant.

Claim 23 recites the limitation "the removable member" in line 1. There is insufficient antecedent basis for this limitation in the claim because it can't be determined if the removable member covering the hollow region of the container or the removable member covering the hollow region of the lid is meant.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-18, 21-23, 26-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Barnes et al. (Barnes) and Tupper.

Kimura discloses a decorative container displaying items in a hollow region comprising an inner container positioned within an outer container thereby defining a hollow region there

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between, the outer container is transparent, a removable member (24) allows access to the hollow region. Kimura discloses the container except for the decorative lid. Barnes teaches a decorative lid removably mounted in the upper opening of a decorative container, the lid defining a hollow cavity and being transparent, the lid comprising a removable access member providing access to the hollow cavity. It would have been obvious to add a lid in order to close the container and seal the contents from contamination. Kimura in view of Barnes discloses the invention except for lid removable access member being replaceable. Tupper teaches the a lid access member (plate A) which is replaceable and removable by groove 25 which is removably and replaceably engaged upon flange 23 of the lid. It would have been obvious to add the groove and flange to Barnes' lid access member and lid, respectively, in order to change the contents and store a refreshed supply of items in the hollow lid cavity.

For claims 17 and 30, it would have been obvious to make the transparent shell dome shaped as a matter of design choice in selecting a well known shape.

For claims 18 and 31, it would have been obvious to provide a 2 centimeter distance between the base portion and shell as a matter of design choice in sizing and shaping the container.

Claims 19, 24, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura in view of Barnes, Tupper and Yellin.

The combination of Kimura, Barnes and Tupper is as taught in the above rejection. The combination discloses the invention except for the plurality of dividers. Yellin teaches a plurality of removable dividers (76), one shown in Fig. 6. It would have been obvious to add a plurality of dividers to the hollow region of Kimura in order to segregate subregions of the

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hollow region and to keep the contents of one subregion from becoming mixed with contents of another subregion. .

Claims 15-18, 21, 22, 26-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallegos in view of Barnes et al. (Barnes) and Tupper.

Gallegos discloses a decorative container displaying items in a hollow region comprising an inner container positioned within an outer container thereby defining a hollow region there between, the outer container is transparent, a removable member (23) allows access to the hollow region. Gallegos discloses the container except for the decorative lid. Barnes teaches a decorative lid removably mounted upon in the upper opening of a decorative container, the lid defining a hollow cavity and being transparent, the lid comprising a removable access member providing access to the hollow cavity. It would have been obvious to add a lid in order to close the container and seal the contents from contamination. Gallegos in view of Barnes discloses the invention except for lid removable access member being replaceable. Tupper teaches the a lid access member (plate A) which is replaceable and removable by groove 25 which is removably and replaceably engaged upon flange 23 of the lid. It would have been obvious to add the groove and flange to Barnes' lid access member and lid, respectively, in order to change the contents and store a refreshed supply of items in the hollow lid cavity.

Claims 19, 24, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallegos in view of Barnes, Tupper and Yellin.

The combination of Gallegos, Barnes and Tupper is as taught in the above rejection. The combination discloses the invention except for the plurality of dividers. Yellin teaches a plurality of removable dividers (76), one shown in Fig. 6. It would have been obvious to add a


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plurality of dividers to the hollow region of Kimura in order to segregate subregions of the hollow region and to keep the contents of one subregion from becoming mixed with contents of another subregion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
July 21, 2003